



Mary-Ann Warmerdam
Director

Department of Pesticide Regulation



Arnold Schwarzenegger
Governor

San Diego County Agricultural Commissioner Pesticide Regulatory Program 2006/2007 Performance Evaluation Report

**California Environmental Protection Agency
Department of Pesticide Regulation
1001 I Street
Sacramento, California 95814**

November 16, 2007

Performance Evaluation of the San Diego County Agricultural Commissioner's Pesticide Regulatory Program For the Fiscal Year 2006/2007

This report provides a performance evaluation of the San Diego County Agricultural Commissioner's Office (SD CAC) pesticide regulatory program (PRP) for the fiscal year 2006/2007 (FY 06/07). The assessment evaluates the performance of goals identified in the SD CAC's FY 06/07 enforcement work plan as well as the SD CAC program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Standards Compendium.

I. Summary Report of Core Program Elements

A) Restricted Materials Permitting:

The restricted materials permitting program element was found to meet DPR standards and work plan goals.

B) Compliance Monitoring:

The compliance monitoring program element was found to meet DPR standards and work plan goals.

C) Enforcement Response:

The enforcement response program element was found to meet DPR standards and work plan goals.

Summary Statement:

The total resources of the SD CAC PRP available for core, non-core, and desirable activities during FY 06/07 were approximately 37,173 hours, as reported on the SD CAC cumulative Pesticide Regulatory Activities Monthly Report (PRAMR) for FY 06/07. This included 22,007 licensed hours for activities in PRAMR categories I - XIII, 6,998 "other" hours (supervision, special projects, etc.) and 8,168 support hours (clerical and other unlicensed staff). The SD CAC PRP has consistently met DPR overall standards for a CAC pesticide use enforcement program.

No deficiencies have been identified in the SD CAC's pesticide use enforcement program and the overall program is currently effective.

II Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting - Effective

The DPR Enforcement Branch Liaisons (EBL) assigned to SD CAC had reviewed a representative sample of Operator ID and restricted materials permits (annual and multi-year). SD CAC issued 478 California Restricted Material permits (RMPs) during FY 06/07 for production agriculture, non-production agriculture, and "nonag" sites to various growers, pest control businesses, private certified applicators, and government agencies. The SD CAC staff adequately evaluated permits and determined if the use of feasible alternatives was required. The EBL

determined the Operator ID and RMP documents issued by SD CAC staff met DPR standards and applicable regulatory requirements. During the fiscal year, the “authorized representative” letter filing process was discussed with SD PRP managers; procedures were put in place to ensure they have a copy of the authorization in the current year’s permit file when the permit is signed by an individual other than the property operator. Review of the permits indicate the permits are issued for time periods allowed by law and permit amendments follow approved procedures.

SD CAC records indicate PRP inspectors conducted pre-application site inspections on approximately 6% of their 1,596 agricultural RMP Notices Of Intent (NOI), which met the Title 3, California Code of Regulations section 6436 regulatory requirement of 5% monitoring. SD CAC followed DPR policy and work plan goals in giving the highest priority in the NOI and site monitoring to activities involving fumigants and other Category I materials, restricted material applications near sensitive sites, and/or those with a history of non-compliance or complaints.

SD CAC continued their local requirement of restricted materials permits for aerial applications of Agri-mek on avocados due to a long history of local concerns and complaints. One SD CAC PRP field inspector closely monitored many of these applications.

The permits contained the necessary information and identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses. The permits identified mitigation measures and included conditions that addressed known hazards.

B) Compliance Monitoring - Effective

1) Investigations (Priority and Non-priority)

SD CAC conducted and completed 75 investigations during FY 06/07. The EBL and Worker Health and Safety (WH&S) Branch reviewed these investigations and determined SD CAC met DPR standards for timeliness and thoroughness. WH&S tracking records indicated SD CAC met DPR standards and their own work plan goals for timely completion and submission of DPR-assigned investigations. The EBL discussed protocol for obtaining medical records for individuals that sought medical attention with the SD PRP managers. The investigations document violations and the CAC staff collects evidence according to DPR standards. The investigations adequately provide information necessary to successfully prosecute violations.

The EBL and WH&S review of SD CAC investigations indicated SD CAC consistently followed DPR policies and met DPR standards by conducting investigations and preparing reports with overall thoroughness and completeness.

2) Inspections (Agricultural and Structural)

The EBL reviewed a representative sample of the approximately 1,074 inspections conducted by SD CAC staff during FY 06/07. The records reviewed by the EBL indicated SD CAC conducted the inspections throughout the county both in a geographical sense and in terms of monitoring all types of industry performing work in the county, with highest emphasis on those segments of industry and/or individual companies or organizations with a history of compliance problems. A review of the cumulative inspection categories' totals reported on the PRAMR indicated SD CAC consistently achieved and sometimes exceeded FY 06/07 internal goals for the various types of inspections.

The two EBLs assigned to San Diego County during the fiscal year also conducted structural and agricultural oversight inspections with various SD CAC PRP inspectors. The EBL's conclusions regarding this core program sub-element were based on the combination of SD CAC inspection records review, EBL oversight field observations, interviews at various times with SD CAC field staff, and EBL follow-up discussions with PRP managers. The EBL determined SD CAC consistently followed DPR's policies and procedures regarding performing inspections and associated follow-up activities with thoroughness and completeness.

C) Enforcement Response - Effective

The EBL reviewed a representative sample from the approximately 728 compliance action documents (Notice of Violation, Warning Letters, Decision Reports, and Cease and Desist Orders) issued by SD CAC in FY 06/07. SD CAC met DPR standards in the issuance of such compliance actions.

The EBL reviewed a representative sample from the 63 structural civil penalty (SCP) actions and 95 agricultural civil penalty (ACP) actions issued by SD CAC during FY 06/07 and their corresponding case summary documents. The review by the EBL determined SD CAC consistently followed the DPR Enforcement Response for those enforcement actions. The review of ACP and SCP documents by the EBL also indicated SD CAC followed the state regulations for assessment of class and fine levels within the agricultural and structural setting, including when appropriate the SD CAC determination and fine assessment as a "repeat violation." SD CAC initiates appropriate actions when violations are identified. The actions taken by SD CAC sufficiently support compliance, enforcement, and public protection. The EBL records reviews indicate due process requirements were consistently met when taking enforcement actions and in administrative civil penalty hearings.

The Department of Pesticide Regulation would like to acknowledge the significant progress SD PRP managers and staff have made during the fiscal year when processing Administrative Civil Penalty Actions. The turn around time for process Notice of Proposed Actions (NOPA) from the date of the violation was documented has been reduced to about 45 days.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities:

A) Farmworker Health Initiative (FWHI):

During FY 06/07, SD CAC continued a project that began approximately seven years ago to educate agricultural workers on pesticide safety. SD CAC sponsors a multi-agency group that meets once per year related to farmworker health and housing issues. SD CAC also participated in the CA-Mexico Border Project's Health Fair in June 2007 to help educate industry on border pesticide safety issues.

B) Additional outreach and industry training sessions:

Various PRP staff gave presentations to industry on agricultural and/or structural laws and regulations, worker safety, and West Nile Virus awareness at various continuing education seminars hosted by local colleges, PAPA, PCOC, and UCR in addition to updating staff with in-house training.

C) Ground/surface water runoff contamination & Hazardous Materials:

PRP staff conducts industry outreach and training and increasing public awareness of these issues as they relate to urban and agricultural pesticide use. This included multi-jurisdictional meetings (state and local water quality enforcement agencies, etc.), presentations and exhibits at industry events, etc.